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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/635,069	04/22/96	SANDRO G	MICR155(95-0

D1M1/0818

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EXAMINER	
WHIPPLE,M	

ART UNIT	PAPER NUMBER
1104	3

DATE MAILED: 08/18/97

Please find below and/or attached an Office communication concerning this application or pr ceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/636,069	Applicant(s) Sandhu et al.
	Examiner Matthew Whipple	Group Art Unit 1104

☒ Responsive to communication(s) filed on *Apr 22, 1996* .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-24* is/are pending in the application.

Of the above, claim(s) *none* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-24* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *1*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 2-050966 (Hisamune).

Hisamune clearly teaches applicant's invention (see Purpose and Constitution). Because the process is identical, including using the same source gases illuminated by a mercury lamp, the atomic concentration of oxygen would inherently be increased. However, applicant is advised that as written, the claim does not necessarily require any such increase because only the intention

of increasing the atomic oxygen is claimed. Further, Hisamune teaches a deposition temperature of about 400° C and applicant claims about 480° C. Temperatures about 400° C, such as 440° C, would also be about 480° C. Therefore, the Hisamune reference anticipates applicant's deposition temperature.

However, if it is somehow seen that applicant's deposition temperature is not anticipated, then this would be a difference.

It has been held that optimization of parameters is obvious (see *In re Aller* 105 USPQ 233 (CCPA 1955)).

Therefore, it would have been obvious to choose the temperature of applicant's claimed process because Hisamune teaches temperatures near applicant's and to provide an efficient deposition process which provides a quality silicon oxide film, according to the precedent set by *In re Aller*.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 4,916,091 (Freeman et al.) also anticipates several of applicant's claims (see col. 16, ln. 63 to col. 17, ln. 55).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Whipple whose telephone number is (703) 308-2521.

MLW
August 12, 1997

Charles L. Bowers
CHARLES L. BOWERS, JR.
SUPERVISORY PATENT EXAMINER
GROUP 1100